

Episode 56

Association With HSBC

After Citibank, another world-famous bank Hong Kong Shanghai Bank (which is famously known as HSBC) contacted me. It also established an interest-free branch, and appointed our friend Mr Iqbal Ahmad Khan as its head. I knew Mr Iqbal Ahmad Khan since a long time as a religiously spirited person and that he could be trusted to follow the decisions issued by the Shariah Board. I therefore accepted Chairmanship of this Board, which included Dr Nazeeh Hammad, Dr Abdul Sattar Abu Ghuddah and Bahrain's Shaykh Nazim Yaqoobi as members. I remained associated with this bank for some time.

Personally, I was not so passionate about economics and finance as for them to be my favourite subjects, but a kind of zeal to see interest-free banking grow and remain on the right direction had overtaken me. Thus, if I received invitation to join any organization that appeared promising, I would join it in some capacity or the other. In this manner, I got associated with the Shariah Boards of many financial institutes one after the other, and also undertook long journeys for this purpose. My main target would be to rectify their processes and relevant contracts from Shariah point of view once. Since these contracts would be in English, and other members of the Shariah Board would only rely on their translations, the responsibility of analysing the original contracts in English would fall on me alone. For this, I would have to rigorously analyse hundred-page to hundred-and-fifty-page contracts. Since these contracts would be prepared by common legal experts who did not grasp Fiqh-related subtleties, I would have to really cudgel my mind for these analyses, and would also have to study the relevant laws. I would then have to make amendments to the contracts and convince the legal experts. And while debating the proposed amendments with them, I would sometimes also have to employ sternness. It is very much possible in legal contracts to alter their very soul by changing a single word, and sometimes the entire impact of an article can be undermined or even annulled by the way another article of the verdict has been phrased. When I would catch such mistakes and make corrections, very experienced lawmakers

would also feel embarrassed, and when I would express my displeasure at this, they would apologize and say that it was not intentional, rather it was an inadvertently mistake.

In this manner, I received the opportunity to prepare detailed contracts of various organizations which later became examples for other organizations. However, whenever I would succeed in rectifying the basic skeleton and contracts of an organization, and devise a process for supervising their Shariah compliance, I would leave that organization. My real interest lay in teaching and academic writing, so working in any organization for an unnecessary period of time would weigh heavily on me. Thus, in whichever global financial institutes I was associated with, I would do my share of the aforementioned work and then leave it. The list of such institutes is quite long, and there is no need to mention it here.

Nonetheless, when I received the opportunity to observe these institutes from inside, I observed where all the disease of interest has spread its roots, and how deep its sphere of harm and destruction extends. The kind of work required to expunge it is similar to the situation of a garden attacked by dodder, where its shoots have to be removed from each and every leaf in the garden.

This stage of my life, where I was involved with various financial institutes for some durations, was the busiest and most difficult period of my life. This was due to the difficulties of the work itself as well as the fact that the works of teaching Hadith, writing Fatwas and academic writing in Darul Uloom continued in parallel. In order to continue with this main work, I had to undertake international trips such that many times, I would visit some country during the day and return home at night. Several times, I completed the travels to such a faraway country as America in only three days, so that absence from teaching in Darul Uloom could be as less as possible. Those who have travelled to America know that after reaching there, several days are needed just to adjust the body to the new timings of day and night and wakefulness and sleep, but I would depart on my return flight even before my body could adjust to this. Besides the journeys undertaken for financial institutes, I would also have to travel for other religious needs, which include participating in the meetings of the Islamic Fiqh Academy and Al-Majma' Al-Fiqhi of Makkah Mukarramah's Muslim World League, as well as for preparing essays for them and delivering other religious and reformative talks

Writing During Journeys

I would utilize these lengthy flights in such writing works as could be carried out during travel. It would thus be my habit during flights that after take-off, I would spend most of my time working on the computer. Due to the frequent travels, many of the staff of PIA, Gulf Air and Emirate Airlines also recognized me.

One time, I boarded a PIA flight for London. The plane had not yet taken off and I was sitting on my seat, when a flight steward brought an airhostess and said to her: “You wished to ask some questions from Mr Taqi since long. He is now sitting on his seat and is not busy, so you can talk to him now. Otherwise, once the plane takes off, his computer will turn on and will not turn off until the plane reaches near London, and you will not get much chance to talk to him”.

In this manner, the first work to be completed during these travels was a comprehensive review of the English translation of Maariful Quran, which was published in eight volumes. This was not a superficial proofreading, rather I even had to re-write numerous paragraphs. After finishing this work, I began the work of myself translating the Noble Quran into English, along with brief explanatory footnotes. For this, I had to keep about twelve contemporary English translations before me. Since it was difficult to keep the hard copy of all of them with me during journeys, I would get the portion under translation typed and would keep those sheets of pages before me, while I would already have all major Tafsirs saved in my computer. Even then, I would have to do some work only after returning to Karachi. In this manner, by the grace of Allah Most High, this work was completed in about three years and published under the title of “The Meanings of the Noble Quran”. And by the grace of Allah Most High, it proved to be well-liked by people, in that its language is easy, simple and uses modern expressions. This is the first English translation of the Noble Quran done by a lowly student of traditional scholars, which has now been published with a high publishing standard from London as well, and is also available on the internet.

I remember another incident related to this. During a trip to Australia, when I landed at Sydney Airport and arrived before the customs officer, who was apparently a non-Muslim Australian, he asked me to open my suitcase. After examination, he put aside some food items as well as my

paan and betel nuts, which meant that I could not take these items inside. I had to stay in Australia for ten or twelve days, so this was a major blow to my habit of consuming *paan*, in that I would have to pass this entire duration without it. I was thus quite perturbed. Coincidentally, the suitcase also contained a copy of my English translation of the Quran, which I had brought to pass to a friend. When the customs officer saw it, he said: “What book is this?” I informed him that it was a translation of the Noble Quran. He asked: “Who wrote this?” I replied that I had written it myself. At this, he would sometimes look at me and sometimes at the book. Thereafter he picked it up and browsed it, and then asked: “How many days did it take you to write this?” I replied: “About three years.” He once again expressed his surprise, and then took the book and went to a nearby customs officer and said to him: “Look! This is a translation of the Quran and its author is present here in front of me. Come and meet him”. The other officer also came to meet, and he also treated me with much respect and honour. Thereafter he picked up the items he had taken out of the suitcase to confiscate and packed them back in one by one in an orderly manner and zipped the bag. He then returned me the luggage and apologized to me, and said: “I will personally accompany you to your hosts”. I told him not to, but he did not agree, and said: “I will accompany you so that you don’t have any difficulty in finding your way”. Saying this, he escorted me outside with great honour and handed me to my hosts.

After the English translation, when I began writing an Urdu translation titled “Aasan Tarjama-e-Quran”, a major portion of it was also completed during journeys, and for this as well, I placed other translations before me similar to the way I did for the English translation. In short, about ten to twelve years passed in such a manner that Allah Most High granted the tawfiq to render some service to the Noble Quran. I found the journeys afterwards bland in the sense that I had no service to render to the Noble Quran during them. Nonetheless, I would still almost always have some work of some essay, etc. during flights.

Preparation of New Standards of Accounting

After working in various financial institutes for quite a period of time, I felt that in terms of rendering services to individual financial institutes, to a large extent I had done what I could.

Now, instead of rendering services to individual institutes, I should get a share in such a work that holds a fundamental significance to interest-free banking as a whole, whose long-term benefits could be enjoyed by the entire industry. Allah Most High created means from the Unseen for this as well, some details of which I am describing below.

As I have written above, interest-based system of economy is a dodder infestation which requires multi-faceted efforts to expunge, and it is not possible to understand this fact without looking at this system from inside. The matter does not end with only modifying the banks' contracts from being based on *riba* (interest) to basing them on the Quranic alternative of "*bay'*" (sale), rather other amendments are also needed for this change. Just one example of this is that the method of accounting employed in commercial organizations globally is bound to follow the international accounting standards that have been defined based on fixed formulas. If we are to rid commercial organizations and banks of interest, these methods of accounting must also be changed. For this, it is necessary for interest-free commercial organizations to have separate accounting standards.

With this need in mind, interest-free banks established an organization by the name of "*Hay'ah Al-Muḥāsibah Wa Al-Murāja'at Li Al-Mu'assisāt Al-Māliyyah Al-Islāmiyyah*" (Accounting and Auditing Organization for Islamic Financial Institutions) in Bahrain in 1990, which is popularly known by its abbreviation of "AAOIFI". Its inaugural Secretary-General was Sudan's Dr Rifaat Abdel Karim, who was a world-renowned auditor. For Shariah guidance of the organization, a Shariah Board under the Chairmanship of Shaykh Yusuf Qaradawi was formed, which included Saudi Arabia's Shaykh Abdullah bin Al-Manea and Syria's Dr Abdul Sattar Abu Ghuddah as members. I was also invited to join it as a member, and I worked as its member for some time. The standards would first be drafted by Muslim accountants and auditors, after which we would review it from Shariah point of view and amend them based on the requirements of Shariah. In this manner, through this institute we prepared comprehensive accounting standards for interest-free financial institutes in the form of a voluminous tome, and many central banks made it compulsory for interest-free institutes in their respective countries to follow these standards.

Establishment of Majlis Shar'ī and Preparation of Shariah Standards

When these standards had been prepared to some extent, one day I was sitting with AAOIFI's Secretary-General Dr Rifaat Abdel Karim waiting for a flight at Jeddah Airport, when he said to me: "While we have prepared standards for accounting, you must have observed that the Shariah Boards of interest-free banks differ with one another over some rulings of Shariah related to finance. One Board may consider a certain transaction as permissible while another considers it impermissible. Due to this, there is lack of harmony in the workings of financial institutes, and they also face severe hurdles in having dealings with one another. Isn't it appropriate that similar to the "Accounting Standards" that we have prepared, we should also prepare "Shariah Standards", and these could be made obligatory for financial institutes to adhere to?"

I myself felt this need since a long time and I expressed my concurrence with this idea. At this, he said: "I will try to form a global "Majlis Shar'i" through my institute, which will consist of only eminent scholars". He thus began this mission, and after some time (on 11th of Dhu Al-Qa'da 1419 AH, equivalent to 27 February 1998), he convened a meeting of the following scholars:

Shaykh Yusuf Qaradawi (Egypt and Qatar), Shaykh Abdullah bin Manea (Saudi Arabia), Shaykh Wahba Al-Zuhayli (Syria), Shaykh Siddiq Al-Dharir (Sudan), Shaykh Abdul Sattar Abu Ghuddah (Syria), Shaykh Abdul Rahman Al-Atram (Saudi Arabia), Shaykh Ajeel Jasim al-Nashmy (Kuwait), Shaykh Muhammad Ali Taskhiri (Iran), Shaykh Ghazali bin Abdul Rahman (Indonesia), Shaykh Daud Muhammad Bakar (Malaysia), and Shaykh Ahmad Ali Abdullah (Sudan).

The formation of "*Al-Majlis Al-Shar'i*" (Shariah Committee) was proposed in this meeting, which would prepare "*Ma'āyir*" (Shariah Standards) for non-interest-based financial institutes, which would, over time, be made obligatory for all Islamic financial institutes to follow, so that the system of interest-free economy could operate with harmony. All the above-mentioned participants vigorously supported this idea and expressed their readiness to voluntarily render their services for this.

When time came to appoint the Board's President and Vice President, my astonishment knew no bounds when Shaykh Yusuf Qaradawi put forth my name for President, and Shaykh Abdullah bin Manea's for Vice President. I tried to excuse myself from accepting this responsibility, but not

only were all others unanimous on this, they insisted on me to accept it. Shaykh Yusuf Qaradawi had already excused himself from formally accepting membership of this Board citing his involvement in other activities, and had participated in this meeting as an honorary guest, but made me take up this service. Since then, while there have been many changes in the members since that time (1998) until now (2022), the responsibility of President of the Board has remained with me. In this period of twenty-five years, the Board would be re-formed every three years. Some members would be replaced by others and fresh elections to select the President and Vice President would take place through secret voting, but the members chose me as President each time.

With respect to the Shariah Standards that this Shariah Board was formed to prepare, what they meant is that with regards to the fiqh-related transactions that take place in Islamic financial institutes, the Shariah-based principles and the frequently occurring details that the financial institutes need should be written down into a legal form. The legal principles and rules for any single contract that are documented in this manner are called the “*Ma’yār*” (Standard) of this kind of contract. For example, the compilation of all principles and rules related to “*Shirkah*” (Partnership) are called “*Ma’yār Al-Shirkah*” (Standard of Partnership).

The process followed for this work was like this: First, an expert scholar would be asked to write a comprehensive essay on the topic for which a standard was to be drafted. He would have to compile all the basic principles related to the topic with evidences from the schools of thought of the four Imams. With respect to the modern issues related to that topic, he would be asked to present possible solutions based on the four Madhhabs and the opinions of contemporary scholars on those issues, and if he wished, he could also present the opinion he preferred with his evidences. Thereafter, in the light of this “*dirāsah*”, he would present a draft of his proposed “*Ma’yār*” (standard). This draft of “*dirāsah*” and “*Ma’yār*” is first presented in lower committees of the Shariah Board. These committees consist of many scholars who perform rigorous reviews of the draft and give it a final shape, so that it could be presented in the Majlis Shar‘ī. The draft is thereafter presented in the Majlis Shar‘ī after passing through the filter of the committees. Initially, for years upon years the Majlis Shar‘ī would meet twice a year; one time in Makkah

Mukarramah in the month of Ramadan, and a second time in Madinah Munawwarah six months later. Each conference would last a full week. After some years, the meetings were changed to four meetings per year, with each lasting three days, and due to visa and some other difficulties, some meetings would also take place in Bahrain. And when travel became difficult due to the Coronavirus, its meetings now take place online, with a two-day meeting taking place on the last Thursday and Saturday of every month.

In these meetings, each and every article of the Standard is discussed in detail. The decisions are usually unanimous, though sometimes differences of opinion remain even after detailed debates. In such cases, the decision is made based on majority opinion, while the differed upon opinion is noted in the conference's minutes. If there are equal opinions on both sides of an argument, the decision is based on the Chairman's opinion. There are members from each of the four schools of thought, and by the grace of Allah Most High, all members openly express their opinions, exchanging the evidences for their point of view. Sometimes this escalates to argumentation as well, but each individual fully respects the other opinion, and in this lowly one's twenty-five-year experience, this difference of opinion never led to resentment between members, rather exemplary brotherhood was always shown. In this manner, about sixty Standards have been prepared until now.¹ Together with them, the "*dirāsāt*" have also been published. With these, a valuable resource of contemporary fiqh related to finance has come into being. There is scope for difference of opinion in every research work, but overall, these Standards have provided a robust foundation for Islamic financial institutes. And now, in about fifteen Muslim countries, these Standards have become akin to a law for Islamic financial institutes, and it was been made legally binding on them to conduct their dealings in accordance with these Standards. In these countries, the Central Bank supervises the implementation of these Standards in Islamic financial institutes.

¹ It should be clear that similar to other global Boards, all Standards prepared by the Majlis Shar'i are also published on its behalf. It is not necessary that each and every member agrees with every point of every Standard. If some member disagrees with something, it is noted in the minutes of the conference.

At this point, the question would arise in some minds that since the Board comprises of members who adhere to each of the four schools of thought, i.e. Hanafi, Shafi, Maliki and Hanbali, and since there are differences of opinion between these Madhhabs on many jurisprudential issues, what is the way to achieve an agreement in those differed upon issues?

The answer to this is that firstly, a majority of the issues related to financial institutes are such that no Madhhab has any difference of opinion on it. For example, all unanimously agree that interest is impermissible, *‘aynah* is impermissible, no partner could take *ḍamān* (guarantee) on the capital or profit or loss of other partners. Similarly, the *Rabb al-Māl* cannot take *ḍamān* (guarantee) of the profit of the *Muḍārib* nor can the *Muḍarib* take guarantee of the profit of the *Rabb al-Māl*, and in *Shirkah* (Partnership), the profit allotted to each partner does not have to be proportionate to his investment, while the loss would always be proportionate to the investment. A sale contract becomes *fāsid* if there is ambiguity in the item being sold, price or duration. The sale of *dayn* (debt) is not permissible, the *mabī‘* (item being sold) and its price cannot both be deferred, forward sales are impermissible. Sale can only take place of something that is in the ownership and possession of the seller, etc. All these points are agreed upon by all four Madhhabs, so there is no question of a difference of opinion related to these.

However, there are certainly some details in which the various madhhabs have different opinions. For such details, the laws of international dealings can only be based on a single Madhhab. Otherwise, for example if there is an international contract between an institute following the Hanafi madhhab and another following the Shafi madhhab, then it is not possible for the seller to insist on the deal to be conducted according to his Madhhab and the buyer on his. International business operations cannot run in this way. Therefore, both would have to agree on one Madhhab. And since no side of the argument on a *Mujtahad Fih* (differed upon) issue is completely invalid, for such issues, from Shariah point of view, the decision of the *Ḥākim*, whichever of the known Madhhabs it is based on, is considered as enforced on all, even on those who hold a different opinion. In view of this principle, especially international contracts have to be made according to one Madhhab.

And almost all of our scholars of Deoband are unanimous on the point that for financial dealings, the opinion of any of the four Imams can be adopted based on business needs. Hakeem Al-Ummah Hadhrat Maulana Thanvi (may Allah have mercy on him) used to say: “I have taken explicit permission of this from Hadhrat Gangohi (may Allah have mercy on him)”. I have described details of this in my book “*Ghayr Sūdi Bankāri*” (Interest-Free Banking).

Thus, whenever such a kind of issue would come up, all members would deliberate over it without any Madhhab-based bigotry, and would usually agree on a common stance which keeps in view the texts of Shariah as well as the business needs and common benefits. If any disagreement remained even after this, the decision would be based on majority opinion. Consequently, the differences between Madhhabs do not create any noteworthy impediments in the preparation of these Standards. And if someone still had a different opinion, they would register it in the minutes. In this manner, the decisions of the Standards have been within the confines of the four Madhhabs.

And it is also a reality that the Hanafi Madhhab has proven to be broader in many dealings compared to other Madhhabs. Thus, it would perhaps not be an exaggeration to say that the Hanafi fiqh was preferred in most of the dealings.